

REMARKS

Claims 1-57 are pending in the present application. By virtue of this response, claims 1 and 38 have been amended. Accordingly, claims 1-57 are currently under consideration. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented.

Rejections Under 35 U.S.C. § 102(e)

The Office has rejected claims 1-22, 31-33, 35-49, 52-54, 56 and 57 as allegedly being anticipated by Greenhalgh (6,346,117).

In support of the rejection, the Office Action states the following on pages 3-5:

Greenhalgh teaches an embolizing device for insertion into an aneurysm. Greenhalgh teaches a least one detachable self-expanding member 78 (see figure 11) configured to be sealed within a membrane 42. The member is defined as self-expanding (column 8, line 39) and includes a self-expanding wire structure in the form of a coil. The membrane is defined as an expandable bag having a volume including an opening (column 7, lines 46-47).

The self-expanding member 78 comprises a structure such that it includes a first configuration conforming to the internal shape of a positioning catheter 26 having a tubular cross-section. In the first configuration, the member including the membrane is fed to the site intended through the tubular internal cavity of the catheter (see figure 5, for example). In the second configuration the wire member 78 self-expands and fills the membrane at the aneurysm site.

Re claims 2, and 13-15, the coil 78 is taught as attached to a feeding wire and "snaked" up the catheter. When the self-expanding member is in place, the wire is released (column 9, line 34).

Re claim 4, Greenhalgh teaches that the expandable member 78 is formed of a great resiliency, high yield stress material and biocompatible.

Re claims 3,5,39,42 and 57, Greenhalgh teaches a stent or expanding member 78 and further teaches NiTi fibers or yams enclosed or forming part of the bag 42. These NiTi elements are self-expanding for aiding the bag to expand. These constitute the second of the at least two members.

Re claims 6-8,33,40,43,53 and 54, the self-expanding member 78 is taught as being fed through a catheter in a first compressed configuration and then expanded in a second configuration. The physical structure of the member is taught as comprising a coil, a first diameter and then a second diameter (compressed and then expanded), which would touch the inner surface of the membrane. The cross-section of the member would include a circular shape. The final expanded shape would include a spherical shape.

Re claims 11-20,44,45 and 52, pushing the member through the catheter stimulates the member. The member 78 is taught as including a connection and is taught that it is released by mechanical or electrical current means (see column 2, lines 5-25). In the case of the electrical release, a current is passed through the catheter and erodes the connection point at the stent 78.

Re claims 21 and 22, the bag is taught as distensible and biocompatible (column 3, lines 31-38).

Re claims 31 and 32, the bag of Greenhalgh is taught as being formed of 5 to 100 denier and this anticipates these claims.

Re claims 35 and 36, the bag has an orifice of .005 inches, which would accommodate the wire to passing therethrough, which is taught as having a diameter of .005 inches (column 1, line 42).

Re claim 37, Greenhalgh teaches the bag including at least one main opening and being further porous for allowing blood to enter or aspirate into the bag and promote clotting. See column 6, line 65 and column 3, line 3.

Re claim 38, and 46-49, Greenhalgh teaches increasing a volume of a distensible member or bag 42 having at least one opening. Greenhalgh teaches the bag being porous (column 6, line 46) and allowing blood to aspirate (column 3, line 1) therethrough and aid in the clotting of the blood within the bag by electrothrombosis (column 9, lines 22-40). A self-expanding member is placed inside the bag and the bag itself is further provided with NiTi elements.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). (MPEP §2131.)

Greenhalgh discloses a bag which is made of yarns “interlaced by braiding.” (Greenhalgh, 7: 1; Figs. 7-11.) To expand or reconfigure Greenhalgh’s bag, the interlaced yarn is designed “to take advantage of the well known ‘trellis effect’ exhibited by braided textiles, i.e., the braided yarns comprising the bag rotate and slide relatively to one another when a force is applied to the bag. This effect results in radial contraction of the bag with axial expansion and radial expansion upon axial contraction.” (Greenhalgh, 7: 2-7.)

According to Greenhalgh’s design, the braided structure “allows bag 42 to be resiliently deformed and assume at least two distinct shape states illustrated in FIGS. 3 and 4.” (Greenhalgh, 7: 10-12.) Moreover, the yarns of Greenhalgh’s bag is able to reconfigure between the shape states when the bag “is stretched longitudinally between its ends 56 and 58” such that the yarns 50 of the braid structure are “resiliently deforming and rotating relative to each other (the ‘trellis effect’) to collapse the expanded diameter and convert bag 42 from its expanded shape state 42a to its smaller diameter, collapsed shape state 42b without kinking or wrinkling.” (Greenhalgh, 7: 22-23 & 24-28;

Figs. 3 & 4.) Thus, Greenhalgh's bag becomes expanded by the twisting and rotation of the individual yarns when the ends of the bag are drawn towards one another, much like a "Chinese handcuff".

On the other hand, independent claim 1 has been amended to recite "an elastomeric membrane which is adapted to distend by stretching into compliant contact within the aneurysm". Likewise, independent claim 38 has been amended to recite "increasing a volume enclosed by a distensible membrane by stretching an elastomeric material." (Specification, parag. [0040].) Applicant contends that Greenhalgh fails to show or describe a membrane which is elastomeric much less an elastomeric membrane which is distended by stretching. Greenhalgh, in fact, fails even to disclose distension of the bag wall but instead discloses a bag which is reconfigured by the twisting and rotation of yarn members.

Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(e).

Allowable Subject Matter

The Office has indicated that claims 23-25, 27-30, 50, 51, and 55 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

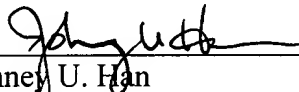
Applicant acknowledges the allowable subject matter with thanks. However, Applicant contends that in light of the remarks above, all pending claims are allowable and respectfully requests allowance therefor.

CONCLUSION

Applicant has, by way of the amendments and remarks presented herein, made a sincere effort to overcome rejections and address all issues that were raised in the outstanding Office Action. Accordingly, reconsideration and allowance of the pending claims are respectfully requested. If it is determined that a telephone conversation would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

Dated: September 24, 2004

Respectfully submitted,

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